

MEMORANDUM FOR:

Returned in DCI Book.

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Date

NSC review completed.

MEMORANDUM

NATIONAL SECURITY COUNCIL

July 22, 1983

ACTION

MEMORANDUM FOR WILLIAM P. CLARK

FROM: KENNETH deGRAFFENREID *Kd*

SUBJECT: NSDD-84 Nondisclosure Agreement Forms

NSDD-84, "Safeguarding National Security Information," requires that the Director of the Information Security Oversight Office (ISOO) develop standardized nondisclosure agreements forms for use throughout the Executive Branch for access to classified information and sensitive compartmented information. ISOO also has authority under the classification Executive Order, 12356, to prescribe security forms after consultation with affected agencies. After months of drafting, contentious negotiation, and thorough-going review, senior working levels of the intelligence community have agreed to the two forms attached at Attachment 1.

The Justice Department has reviewed and approved both forms for enforceability in civil action. Because these nondisclosure forms are so well developed and comprehensive, when implemented, they will be a significant step in the overall effort to stop leaks. Both forms are now ready for final circulation prior to your approval and direction that ISOO print and distribute them as Standards Forms for required use throughout the government.

Because development of these forms has been so controversial and because there are elements within the bureaucracy and elsewhere which have actively sought to undercut the President's strong prescription for dealing with leaks, I recommend that you circulate the forms for a final review by the senior Cabinet Officers prior to implementation. Although this would skip the normal step of circulation by our Executive Secretary, Bob Kimmitt and I agree that we need to wrap this issue up as quickly and forcefully as possible.

Following dispatch of your memorandum, ISOO will distribute final drafts to the 60-odd other agencies throughout the government who will also use the forms.

Paul Thompson concurs *Kd for PT*

Recommendation

That you sign the attached memorandum (Tab I).

Approve _____

Disapprove _____

Attachments

Tab I Memorandum to Cabinet Officers for Signature
1. Draft Nondisclosure forms
2. Department of Justice Letter

DRAFT
JUL 28 1983

SENSITIVE COMPARTMENTED INFORMATION NONDISCLOSURE AGREEMENT

An Agreement Between _____ and the United States
(Name-Printed or Typed)

1 1. Intending to be legally bound, I hereby accept the obligations
2 contained in this Agreement in consideration of my being granted
3 access to information known as Sensitive Compartmented Information
4 (SCI). I have been advised and am aware that SCI involves or
5 derives from intelligence sources or methods and is classified or
6 classifiable under the standards of Executive Order 12356 or under
7 other Executive order or statute. I understand and accept that by
8 being granted access to SCI, special confidence and trust shall be
9 placed in me by the United States Government.

1 2. I hereby acknowledge that I have received a security indoctrination
2 concerning the nature and protection of SCI, including the procedures
3 to be followed in ascertaining whether other persons to whom I
4 contemplate disclosing this information have been approved for
5 access to it, and that I understand these procedures. I understand that
6 I may be required to sign subsequent agreements as a condition of
7 being granted access to different categories of SCI. I further
8 understand that all my obligations under this Agreement continue to
9 exist whether or not I am required to sign such subsequent agreements.

1 3. I have been advised and am aware that direct or indirect unauthorized
2 disclosure, unauthorized retention, or negligent handling of SCI by
3 me could cause irreparable injury to the United States or could be
4 used to advantage by a foreign nation. I hereby agree that I will
5 never divulge such information unless I have officially verified
6 that the recipient has been properly authorized by the United States
7 Government to receive it or I have been given prior written notice of
8 authorization from the United States Government Department or Agency
9 (hereinafter Department or Agency) last granting me either a security
10 clearance or an SCI access approval that such disclosure is permitted.

1 4. I further understand that I am obligated to comply with laws and
2 regulations that prohibit the unauthorized disclosure of classified
3 information. As used in this Agreement, classified information is
4 information that is classified under the standards of E.O. 12356, or
5 under any other Executive order or statute that prohibits the
6 unauthorized disclosure of information in the interest of national
7 security.

1 5. In consideration of being granted access to SCI and of being
2 assigned or retained in a position of special confidence and trust
3 requiring access to SCI and other classified information, I hereby
4 agree to submit for security review by the Department or Agency
5 last granting me either a security clearance or an SCI access
6 approval all materials, including works of fiction, that I contemplate
7 disclosing to any person not authorized to have such information,

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8 or that I have prepared for public disclosure, which contain or
9 purport to contain:

- 10 (a) any SCI, any description of activities that produce or
- 11 relate to SCI, or any information derived from SCI;
- 12 (b) any classified information from intelligence reports
- 13 or estimates; or
- 14 (c) any information concerning intelligence activities,
- 15 sources or methods.

16 I understand and agree that my obligation to submit such information
17 and materials for review applies during the course of my access to
18 SCI and at all times thereafter. However, I am not required to
19 submit for review any such materials that exclusively contain
20 information lawfully obtained by me, and to be published, at a time
21 when I have no employment, contract or other relationship with the
22 United States Government.

1 6. I agree to make the submissions described in paragraph 5 prior
2 to discussing the information or materials with, or showing them to
3 anyone who is not authorized to have access to such information. I
4 further agree that I will not disclose such information or materials
5 unless I have officially verified that the recipient has been
6 properly authorized by the United States Government to receive it or
7 I have been given written authorization from the Department or
8 Agency last granting me either a security clearance or an SCI
9 access approval that such disclosure is permitted.

1 7. I understand that the purpose of the review described in paragraph 5
2 is to give the United States a reasonable opportunity to determine
3 whether the information or materials submitted pursuant to paragraph 5
4 set forth any SCI or other information that is subject to classification
5 under E.O. 12356 or under any other Executive order or statute that
6 prohibits the unauthorized disclosure of information in the interest
7 of national security. I further understand that the Department or
8 Agency to which I have submitted materials will act upon them,
9 coordinating with the Intelligence Community or other agencies when
10 appropriate, and substantively respond to me within 30 working days
11 from date of receipt.

1 8. I have been advised and am aware that any breach of this Agreement
2 may result in the termination of any security clearances and SCI
3 access approvals that I may hold; removal from any position of
4 special confidence and trust requiring such clearances or access
5 approvals; and the termination of my employment or other relationships
6 with the Departments or Agencies that granted my security clearances
7 or SCI access approvals. In addition, I have been advised and am
8 aware that any unauthorized disclosure of SCI or other classified
9 information by me may constitute a violation or violations of United
10 States criminal laws, including the provisions of Sections 641, 793,
11 794, 798, and 952, Title 18, United States Code, the provisions

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12 of Section 783(b), Title 50, United States Code, and the provisions
13 of the Intelligence Identities Protection Act of 1982. I recognize
14 that nothing in this Agreement constitutes a waiver by the United
15 States of the right to prosecute me for any statutory violation.

1 9. I hereby assign to the United States Government all royalties,
2 remunerations, and emoluments that have resulted, will result, or
3 may result from any disclosure, publication, or revelation not
4 consistent with the terms of this Agreement.

1 10. I understand that the United States Government may seek any
2 remedy available to it to enforce this Agreement including, but not
3 limited to, application for a court order prohibiting disclosure of
4 information in breach of this Agreement.

1 11. I understand that all information to which I may obtain access
2 by signing this Agreement is now and will forever remain the property
3 of the United States Government. I do not now, nor will I ever,
4 possess any right, interest, title, or claim whatsoever to such
5 information. I agree that I shall return all materials which have
6 or may come into my possession or for which I am responsible
7 because of such access, upon demand by an authorized representative
8 of the United States Government or upon the conclusion of my employment
9 or other relationship with the Department or Agency that last
10 granted me either a security clearance or an SCI access approval.
11 If I do not return such materials upon request, I understand that
12 this may be a violation of Section 793, Title 18, United States
13 Code, a United States criminal law.

1 12. Unless and until I am released in writing by an authorized
2 representative of the United States Government, I understand that
3 all conditions and obligations imposed upon me by this Agreement
4 apply during the time I am granted access to SCI and at all times
5 thereafter.

1 13. Each provision of this Agreement is severable. If a court should
2 find any provision of this Agreement to be unenforceable, all other
3 provisions of this Agreement shall remain in full force and effect.

1 14. I have read this Agreement carefully and my questions, if any,
2 have been answered to my satisfaction. I acknowledge that the
3 briefing officer has made available to me Sections 641, 793, 794,
4 798, and 952 of Title 18, United States Code, Section 783(b) of
5 Title 50, United States Code, the Intelligence Identities Protection
6 Act of 1982, and Executive Order 12356 so that I may read them at
7 this time, if I so choose.

1 15. I make this Agreement without mental reservation or purpose of
2 evasion.

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SIGNATURE _____

DATE _____ JUL 22 1978

SOCIAL SECURITY NUMBER
(SEE NOTICE BELOW)

ORGANIZATION _____

- 1 The execution of this Agreement was witnessed by the undersigned,
- 2 who, on behalf of the United States Government, agreed to its terms
- 3 and accepted it as a prior condition of access to Sensitive Compartmented
- 4 Information.

WITNESS and ACCEPTANCE:

SIGNATURE _____

DATE _____

ORGANIZATION _____

SECURITY BRIEFING ACKNOWLEDGEMENT

I hereby acknowledge that I was briefed on the following SCI Special Access Program(s):

(Special Access Programs by Initials Only)

Signature of Individual Briefed _____

Date Briefed _____

Printed or Typed Name _____

Social Security Number (See Notice Below)

Organization (Name and Address) _____

I certify that the above SCI access(es) were approved in accordance with relevant SCI procedures and that the briefing presented by me on the above date was also in accordance therewith.

Signature of Briefing Officer _____

Printed or Typed Name _____

Organization (Name and Address) _____

Social Security Number (See Notice Below)

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SECURITY DEBRIEFING ACKNOWLEDGEMENT

Having been reminded of my continuing obligation to comply with the terms of this Agreement, I hereby acknowledge that I was debriefed on the following SCI Special Access Program(s):

(Special Access Programs by Initials Only)

Signature of Individual Debriefed

Date Debriefed

Printed or Typed Name

Social Security Number (See Notice Below)

Organization (Name and Address)

I certify that the debriefing presented by me on the above date was in accordance with relevant SCI procedures.

Signature of Debriefing Officer

Printed or Typed Name

Organization (Name and Address)

Social Security Number (See Notice Below)

- 1 NOTICE: The Privacy Act, 5 U.S.C. 552a, requires that federal
2 agencies inform individuals, at the time information is solicited
3 from them, whether the disclosure is mandatory or voluntary, by
4 what authority such information is solicited, and what uses will
5 be made of the information. You are hereby advised that authority
6 for soliciting your Social Security Account Number (SSN) is Executive
7 Order 9397. Your SSN will be used to identify you precisely when
8 it is necessary to 1) certify that you have access to the information
9 indicated above, 2) determine that your access to the information
10 indicated has terminated, or 3) certify that you have witnessed
11 a briefing or debriefing. Although disclosure of your SSN is not
12 mandatory, your failure to do so may impede the processing of such
13 certifications or determinations.

CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT

DRAFT**JUL 28 1983**

An Agreement Between _____ and the United States
(Name-Printed or Typed)

1 1. Intending to be legally bound, I hereby accept the obligations
2 contained in this Agreement in consideration of my being granted
3 access to classified information. As used in this Agreement, classified
4 information is information that is either classified or classifiable
5 under the standards of Executive Order 12356, or under any other Executive
6 order or statute that prohibits the unauthorized disclosure of information
7 in the interest of national security. I understand and accept that
8 by being granted access to classified information, special confidence
9 and trust shall be placed in me by the United States Government.

1 2. I hereby acknowledge that I have received a security indoctrination
2 concerning the nature and protection of classified information,
3 including the procedures to be followed in ascertaining whether
4 other persons to whom I contemplate disclosing this information have
5 been approved for access to it, and that I understand these procedures.

1 3. I have been advised and am aware that direct or indirect unauthorized
2 disclosure, unauthorized retention, or negligent handling of classified
3 information by me could cause irreparable injury to the United States
4 or could be used to advantage by a foreign nation. I hereby agree
5 that I will never divulge such information unless I have officially
6 verified that the recipient has been properly authorized by the
7 United States Government to receive it or I have been given prior
8 written notice of authorization from the United States Government
9 Department or Agency (hereinafter Department or Agency) last granting
10 me a security clearance that such disclosure is permitted. I
11 further understand that I am obligated to comply with laws and
12 regulations that prohibit the unauthorized disclosure of classified
13 information.

1 4. I have been advised and am aware that any breach of this Agreement
2 may result in the termination of any security clearances I hold; removal
3 from any position of special confidence and trust requiring such
4 clearances; and the termination of my employment or other relationships
5 with the Departments or Agencies that granted my security clearance or
6 clearances. In addition, I have been advised and am aware that any
7 unauthorized disclosure of classified information by me may constitute
8 a violation or violations of United States criminal laws, including
9 the provisions of Sections 641, 793, 794, 798, and 952, Title 18,
10 United States Code, the provisions of Section 783(b), Title 50,
11 United States Code, and the provisions of the Intelligence Identities
12 Protection Act of 1982. I recognize that nothing in this Agreement
13 constitutes a waiver by the United States of the right to prosecute
14 me for any statutory violation.

1 5. I hereby assign to the United States Government all royalties,
2 remunerations, and emoluments that have resulted, will result or may
3 result from any disclosure, publication, or revelation not consistent
4 with the terms of this Agreement.

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1 6. I understand that the United States Government may seek any
2 remedy available to it to enforce this Agreement including, but
3 not limited to, application for a court order prohibiting disclosure
4 of information in breach of this Agreement.

1 7. I understand that all information to which I may obtain access
2 by signing this Agreement is now and will forever remain the property
3 of the United States Government. I do not now, nor will I ever,
4 possess any right, interest, title, or claim whatsoever to such
5 information. I agree that I shall return all materials, which have,
6 or may have, come into my possession or for which I am responsible
7 because of such access, upon demand by an authorized representative
8 of the United States Government or upon the conclusion of my employment
9 or other relationship with the Department or Agency that last
10 granted me a security clearance. If I do not return such materials
11 upon request, I understand that this may be a violation of Section 793,
12 Title 18, United States Code, a United States criminal law.

1 8. Unless and until I am released in writing by an authorized
2 representative of the United States Government, I understand that
3 all conditions and obligations imposed upon me by this Agreement
4 apply during the time I am granted access to classified information,
5 and at all times thereafter.

1 9. Each provision of this Agreement is severable. If a court
2 should find any provision of this Agreement to be unenforceable, all
3 other provisions of this Agreement shall remain in full force and
4 effect.

1 10. I have read this Agreement carefully and my questions, if
2 any, have been answered to my satisfaction. I acknowledge that
3 the briefing officer has made available to me Sections 641, 793,
4 794, 798, and 952 of Title 18, United States Code, Section 783(b) of
5 Title 50, United States Code, the Intelligence Identities Protection
6 Act of 1982, and Executive Order 12356, so that I may read them
7 at this time, if I so choose.

1 11. I make this Agreement without mental reservation or purpose
2 of evasion.

SIGNATURE

DATE

SOCIAL SECURITY NUMBER
(SEE NOTICE BELOW)

ORGANIZATION

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JUL 28 1983

- 1 The execution of this Agreement was witnessed by the undersigned,
- 2 who, on behalf of the United States Government, agreed to its terms
- 3 and accepted it as a prior condition of access to classified information.

WITNESS and ACCEPTANCE:

SIGNATURE

DATE

ORGANIZATION

- 1 NOTICE: The Privacy Act, 5 U.S.C. 552a, requires that federal
- 2 agencies inform individuals, at the time information is solicited
- 3 from them, whether the disclosure is mandatory or voluntary, by what
- 4 authority such information is solicited, and what uses will be made
- 5 of the information. You are hereby advised that authority for
- 6 soliciting your Social Security Account Number (SSN) is Executive
- 7 Order 9397. Your SSN will be used to identify you precisely when it
- 8 is necessary to 1) certify that you have access to the information
- 9 indicated above or 2) determine that your access to the information
- 10 indicated has terminated. Although disclosure of your SSN is not
- 11 mandatory, your failure to do so may impede the processing of such
- 12 certifications or determinations.

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR THE HONORABLE GEORGE P. SHULTZ
The Secretary of State

THE HONORABLE DONALD P. REGAN
The Secretary of Treasury

THE HONORABLE CASPAR W. WEINBERGER
The Secretary of Defense

THE HONORABLE WILLIAM FRENCH SMITH
The Attorney General

THE HONORABLE DONALD HODEL
The Secretary of Energy

THE HONORABLE WILLIAM J. CASEY
The Director of Central Intelligence

SUBJECT: NSDD-84 Nondisclosure Agreement Forms

Attached are final drafts of the nondisclosure agreement forms for access to classified information and sensitive compartmented information developed by senior representatives of your respective departments and agencies as part of the implementing procedures for National Security Decision Directive-84, "Safeguarding National Security Information," (Attachment 1).

As required by NSDD-84, the Department of Justice has reviewed both forms and has determined them to be enforceable in a civil action brought by the United States. A copy of the Department of Justice letter is attached for your information (Attachment 2). I intend to approve these forms as consistent with the requirements of NSDD-84, unless I receive prior to August 5, 1983, your request for a National Security Council meeting to consider substantive objections.

After approval, the Classified Information Nondisclosure Agreement will be promulgated by the Information Security Oversight Office as a Standard Form for use throughout the Executive Branch. I anticipate that the Sensitive Compartmented Information Nondisclosure Agreement will be promulgated

by the Director of Central Intelligence as a replacement for the present Form 4193. Departments or agencies ~~will~~ ^{may} ~~be permitted to use alternative forms for these purposes only upon submission of alternative forms for~~ ^{approval} ~~determination that such forms also~~ satisfy the requirements of NSDD-84.

FOR THE PRESIDENT:

William P. Clark

Attachments

1. Final Drafts of Classified Information Nondisclosures Agreement
2. Department of Justice Letter to ISOO, GSA, July 19, 1983